

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

V.

Case No. 4:20-cr-00025-KGB-3

KENNETH MYERS, JR

DEFENDANT

**ORDER**


On September 22, 2020, Defendant appeared before this Court for Plea and Arraignment. *Doc. 74*. The Court found Defendant financially ineligible for appointment of counsel under 18 U.S.C. § 3006A, but it temporarily appointed the Federal Public Defender for purposes of that hearing. *Doc. 72*. It directed Pretrial Services to investigate Defendant's financial situation so it could make a final determination as to Defendant's eligibility for appointed counsel. The Court has now received and reviewed Defendant's financial records, and it finds him ineligible for the appointment of counsel.

A person is eligible for court appointed counsel if, after an appropriate inquiry, the court is satisfied that the person "is financially unable to obtain counsel." 18 U.S.C. § 3006A(b). "The defendant bears the burden of establishing that he or she is financially unable to obtain counsel." *United States v. Fincher*, 593 F.3d 702, 705 (8th Cir. 2010) (citations omitted). "Financial inability to pay 'is not the same as indigence or destitution,' ... and doubts as to eligibility should be resolved in a defendant's favor." *United States v. Brockman*, 183 F.3d 891, 897 (8th Cir. 1999) (citations omitted).

In support of his request for counsel, Defendant provided Pretrial Services with an account of his monthly household income and expenses. Defendant includes his spouse's income and expenses in his disclosure, so this Court takes that to mean his spouse is willing to contribute to

his legal expenses. *See 7A Guide to Judiciary Policy* § 210.40.50 (“eligibility should be made without regard to the financial ability of the person’s family unless the family indicates willingness and financial ability to retain counsel promptly.”). Defendant’s gross annual income is \$142,800. His spouse’s gross annual income is \$85,009.08. Defendant’s net household monthly income is \$13,113.94. He reports \$9,900.09 in monthly household cash outflow, including \$943.53 for car payments and \$734.29 for telephone bills. Notwithstanding these seemingly excessive monthly expenses, Defendant’s household still brings in a total of \$3,233.85 per month. Based on these net earnings, this Court finds Defendant financially able to obtain adequate counsel of his choosing. Defendant must report who he has retained as counsel within thirty days. At that point, the Federal Public Defender will be relieved as counsel, and the Court may require Defendant to reimburse the Government for his representation in the interim.

IT IS SO ORDERED this 14th day of October, 2020.

A handwritten signature in black ink, consisting of a stylized 'K' with a large loop and a long horizontal stroke extending to the right.

UNITED STATES MAGISTRATE JUDGE